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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

THAKUR, VIREN A

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

10/11/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/681,649	Applicant(s) NEHLS ET AL.	
	Examiner Viren Thakur	Art Unit 1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 17-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The objection to the drawing has been withdrawn.
2. The rejections of claims 3-7,8,11 and 13-15 under 35 U.S.C. 112, second paragraph have been withdrawn.
3. The rejection of claims 2-7 under 35 U.S.C. 102(b) as being anticipated by Mauer (US 5741536) has been withdrawn.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claim 1-2,9,11 and 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilson et al. (US 5711981).**

The reference and rejection are taken as cited in the prior Office Action, mailed January 29, 2007.

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6. **Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Mauer (US 5741536).**

The limitations of Mauer regarding instant claim 1 are taken as recited in the prior Office Action, mailed January 29, 2007.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. **Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson et al. (US 5711981).**

The reference and rejection are taken as cited in the prior Office Action,
mailed January 29, 2007.

- 10. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson et al. (US 5711981) in view of Pikus et al. (US 6098307).**

The reference and rejection are taken as cited in the prior Office Action,
mailed January 29, 2007.

- 11. Claims 3-7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson et al. (US 5711981) in view of Gressly (US 2682827).**

The reference and rejection are taken as cited in the prior Office Action,
mailed January 29, 2007.

- 12. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson et al. (US 5711981) in view of Kennedy et al. (US 2153572).**

The reference and rejection are taken as cited in the prior Office Action,
mailed January 29, 2007.

Response to Arguments

13. On page 10 of applicant's response, applicant states that Wilson does not disclose a steam sleeve and instead Wilson discloses a steam chamber. This argument has been fully considered but is not deemed persuasive. As can be seen in figure 5, the chamber is a close fitting chamber around the food product and thus is interpreted to be a sleeve. Applicant further states that the "chamber" of Wilson is many times larger than the dimensions of the food as can be seen in item 14, figure 1 of Wilson. This has been fully considered but is not deemed persuasive. As can be seen in figure 5, the sleeve is not many times larger, but rather larger such that the food product can fit there-through. Regarding the sleeve, applicant has not provided any definition for a sleeve and further since the food product is placed into an enclosed section, such as that shown in Figure 5, to interpret item 114 of Figure 5 as a sleeve would be considered a reasonable interpretation for the limitation of a sleeve.

On page 11, applicant asserts that with regard to claim 2, Wilson does not disclose the circulating of a flow of steam with a channel in an interior of the sleeve as disclosed in claim 2. Applicant further states that while Wilson does have an inlet and an outlet for steam, it does not circulate steam nor is there a channel in an interior of the chamber. This argument has been fully considered but is not deemed persuasive. Figure 9A, as shown by Wilson et al. is a cross sectional end view showing the circulation of steam through the steam chamber

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(Column 4, Lines 50-51). Thus, Wilson et al. teach circulating steam. This is further supported by item 136 in figure 5, which is the conduit that passes the steam and allows for the circulation of steam. Regarding the channel, the steam travels through a channel, as shown in Figure 9A, item 136, 142 and Item S. These are channel, within the sleeve, through which the steam travels. Since the inlet and outlet are at the same end of the sleeve, i.e. at the top of the chamber, the steam is necessarily circulated through the sleeve since it exits from the same portion of the sleeve as it enters the sleeve.

Regarding Mauer, Applicant states that Mauer does not disclose a sleeve but rather the steam chamber of Mauer are sized many times larger than the dimensions of the food. Nevertheless, in light of the fact that applicant has not provided a definition within the specification for what can be considered a sleeve, the size of the food would not have provided delineation between what can be considered a sleeve and what cannot. That is, a large sleeve can also contain small food products, such as that disclosed by Mauer. Therefore, to interpret enclosure of Mauer as a sleeve would still have been a reasonable interpretation of the instantly claimed limitation.

Regarding instant claim 2, applicant states that Mauer does not disclose an outlet for removal of the steam and condensation from the sleeve. Applicant's arguments regarding an outlet for the removal of condensation from the sleeve is deemed persuasive.

Regarding instant claim 6, applicant states that Mour does not disclose the step of providing more than one set of helical channels each having their own inlet for introduction of the steam into the sleeve. Applicant's argument has been fully considered and is persuasive. Mauer does disclose more than one set of helical channels each having their own inlet but does not disclose an outlet for removal of steam from the sleeve.

Conclusion

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viren Thakur whose telephone number is (571)-272-6694. The examiner can normally be reached on Monday through Friday from 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571)272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Viren Thakur
Examiner
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KEITH HENDRICKS
PRIMARY EXAMINER